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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,324	08/18/2003	Takeshi Nishiuchi	60303.32	2834
54070	7590	11/07/2006		
NEOMAX CO., LTD. C/O KEATING & BENNETT, LLP 8180 GREENSBORO DRIVE SUITE 850 MCLEAN, VA 22102			EXAMINER SHEEHAN, JOHN P	
			ART UNIT 1742	PAPER NUMBER
DATE MAILED: 11/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/642,324

Applicant(s)

NISHIUCHI ET AL.

Examiner

John P. Sheehan

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 20 October 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). October 20, 2006.
13. ☒ Other: See Continuation Sheet.


John P. Sheehan
Primary Examiner
Art Unit: 1742

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejection of claims 1 to 20 under 35 USC 103(a) as obvious over Chang et al. (IEEE Transactions on Magnetics, Vol. 35, No. 5, Sept. 1999) has been overcome by applicants' arguments set forth in the paragraph bridging pages 7 and 8 of applicants' response and the first full paragraph on page 8 of applicants' response.

Continuation of 11. does NOT place the application in condition for allowance because: applicants' arguments regarding the La proportion in Ma et al.'s alloy are not persuasive. When the subscripts of Ma's Examples 6 and 7 are multiplied, Ma's Examples 6 and 7 contain 0.525% La, which is considered to be encompassed by the instant claim language "substantially excluding La and Ce" which is defined in the specification as "about 0.5 at% or less" (specification paragraph 176). Applicants' argument that Ma et al. is silent with respect to the percentage volume of the R2Fe14B phase and that Ma et al. does not teach or suggest the percentage volume of the R2Fe14B phase as 60% or more is not persuasive. As set forth in the statement of the rejection, in view of the fact that Ma's examples alloys have compositions that are encompassed by the instant claims and are made by a process which is similar to, if not the same as, applicants' process of making the instantly claimed alloy it would be expected that Ma alloys would possess all the same properties as recited in the instant claims, including the volume percent of R2Fe14B phase, In re Best, 195 USPQ, 430 and MPEP 2112.01.

Continuation of 12. The information disclosure statement filed October 20, 2006 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e) and because it lacks the fee set forth in 37 CFR 1.17(p) with respect to newly submitted US Patent No. 5,803,992. References KR 1998-16178 and Chang et al. have been considered by the Examiner in that these references were submitted with this IDS in order to replace copies of these references that were either lost by the Office or not submitted by applicants in the IDS's submitted September 6, 2005 and April 24, 2006.

Continuation of 13. Other: Per applicants' request, the Examiner acknowledges receipt of the certified English translation of the Japanese Priority Application No. 2001-354315 submitted April 18, 2006.